

106TH CONGRESS
2D SESSION

H. R. 5565

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve implementation of the western Alaska community development quota program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2000

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve implementation of the western Alaska community development quota program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Western Alaska Com-
5 munity Development Quota Program Implementation Im-
6 provement Act of 2000”.

1 **SEC. 2. IMPROVEMENT OF WESTERN ALASKA COMMUNITY**
2 **DEVELOPMENT QUOTA PROGRAM.**

3 Section 305 of the Magnuson-Stevens Fishery Con-
4 servation and Management Act (16 U.S.C. 1855) is
5 amended—

6 (1) by amending the subsection heading for
7 subsection (i) to read as follows:

8 “(i) WESTERN PACIFIC COMMUNITY DEVELOPMENT
9 PROGRAM.—”;

10 (2) by striking paragraph (1) of subsection (i);

11 (3) by redesignating paragraph (2) of sub-
12 section (i) as paragraph (1);

13 (4) by inserting before paragraph (3) of sub-
14 section (i) the following:

15 “(k) GENERAL PROVISIONS RELATING TO COMMU-
16 NITY DEVELOPMENT QUOTA PROGRAMS.—”;

17 (5) in subsection (k) (as designated by para-
18 graph (4) of this section) by redesignating para-
19 graphs (3) and (4) as paragraphs (1) and (2) of
20 subsection (k), respectively; and

21 (6) by inserting after subsection (i) the fol-
22 lowing:

23 “(j) WESTERN ALASKA COMMUNITY DEVELOPMENT
24 PROGRAM.—

1 “(1) ESTABLISHMENT.—The North Pacific
2 Council and the Secretary shall establish a western
3 Alaska community development quota program—

4 “(A) to afford eligible communities a fair
5 and equitable opportunity to participate in Ber-
6 ing Sea fisheries; and

7 “(B) to assist eligible communities to
8 achieve sustainable long-term diversified local
9 economic development.

10 “(2) ALLOCATION OF PERCENTAGES OF BERING
11 SEA DIRECTED FISHERIES.—The Secretary shall al-
12 locate the following percentages of the total allow-
13 able catches and guideline harvest levels of Bering
14 Sea directed fisheries as directed fishing allowances
15 to the western Alaska community development quota
16 program:

17 “(A) No less than 10 percent of the total
18 allowable catch of the Bering Sea directed pol-
19 lock fishery.

20 “(B) No less than 7.5 percent of the total
21 allowable catch of all other Bering Sea directed
22 groundfish fisheries.

23 “(C) No less than 7.5 percent of the guide-
24 line harvest level of each Bering Sea directed
25 crab fishery.

1 “(3) ELIGIBILITY TO PARTICIPATE.—To be eli-
2 gible to participate in the western Alaska community
3 development quota program, a community must—

4 “(A) be located—

5 “(i) within 50 nautical miles from the
6 baseline from which the breadth of the ter-
7 ritorial sea is measured along the Bering
8 Sea coast from the Bering Strait to the
9 westernmost of the Aleutian Islands; or

10 “(ii) on an island within the Bering
11 Sea;

12 “(B) not be located on the Gulf of Alaska
13 coast of the north Pacific Ocean;

14 “(C) be certified by the Secretary of the
15 Interior pursuant to the Alaska Native Claims
16 Settlement Act (43 U.S.C. 1610 et seq.) to be
17 a Native village;

18 “(D) consist of residents who conduct
19 more than one-half of their current commercial
20 or subsistence fishing effort in the waters of the
21 Bering Sea or waters surrounding the Aleutian
22 Islands;

23 “(E) not have previously developed har-
24 vesting or processing capability sufficient to
25 support substantial participation in the ground-

1 fish fisheries of the Bering Sea, unless the com-
2 munity demonstrates that its participation in
3 the western Alaska community development
4 program is the only way for the community to
5 realize a return from previous investments in
6 harvesting or processing capability; and

7 “(F) be a member of a CDQ group.

8 “(4) AUTHORITY TO HARVEST.—(A) The Sec-
9 retary may authorize a CDQ group to harvest a
10 share of the percentage of the total allowable catch
11 or guideline harvest level of a Bering Sea directed
12 fishery allocated under paragraph (2) if the CDQ
13 group submits a community development plan to the
14 Secretary in accordance with this paragraph.

15 “(B) A community development plan shall—

16 “(i) request a share of the percentage
17 of the total allowable catch or guideline
18 harvest level of the fishery that the CDQ
19 group that submits the plan desires to har-
20 vest annually during the effective period of
21 the plan; and

22 “(ii) describe all CDQ projects that
23 the CDQ group that submits the plan in-
24 tends to participate in during the 36-
25 month duration of the plan.

1 “(C)(i) The Secretary shall timely approve or
2 disapprove each community development plan sub-
3 mitted under this paragraph that contains the infor-
4 mation described in subparagraph (B). If approved,
5 a community development plan shall be effective for
6 36 months, except as provided in clause (ii).

7 “(ii) The community development plans that
8 the Secretary approved before the 2001 fishing year
9 shall expire on December 31, 2003.

10 “(D) In approving a community development
11 plan, the Secretary shall specify the share of the
12 total allowable catch or guideline harvest level that
13 the CDQ group is authorized to harvest annually
14 under the plan, in accordance with paragraph (5).

15 “(5) SPECIFICATION OF HARVEST SHARES.—

16 (A) If the total of the harvest shares requested pur-
17 suant to paragraph (4)(B)(i) for a fishery is greater
18 than the percentage of the total allowable catch or
19 guideline harvest level for the fishery allocated under
20 paragraph (2) to the western Alaska community de-
21 velopment quota program, the Secretary shall au-
22 thorize each CDQ group requesting a harvest share
23 to harvest annually the share of the percentage of
24 the total allowable catch or guideline harvest level of

1 the fishery that the Secretary determines is appro-
2 priate.

3 “(B) If the Secretary authorizes a CDQ group
4 to harvest a share of a fishery that is less than the
5 harvest share requested in the community develop-
6 ment plan submitted by the CDQ group, the Sec-
7 retary shall give the CDQ group an opportunity to
8 amend the plan to reflect the reduction in harvest
9 share authorized by the Secretary.

10 “(C)(i) Within 24 months after the date of en-
11 actment of the Western Alaska Community Develop-
12 ment Program Implementation Improvement Act of
13 2000, each CDQ group may submit criteria to the
14 Secretary for the Secretary to consider in deter-
15 mining harvest shares under subparagraph (A).

16 “(ii) If, pursuant to clause (i), each CDQ group
17 submits the same criteria to the Secretary, the Sec-
18 retary shall consider only those criteria in deter-
19 mining harvest shares under subparagraph (A).

20 “(iii) If, pursuant to clause (i), all CDQ groups
21 do not submit the same criteria to the Secretary, the
22 Secretary shall, by not later than 30 months after
23 the date of enactment of the Western Alaska Com-
24 munity Development Program Implementation Im-
25 provement Act of 2000, promulgate regulations that

1 establish criteria that the Secretary shall consider in
2 determining harvest shares under subparagraph (A).

3 “(6) PARTICIPATION BY STATE OF ALASKA.—

4 (A) The Secretary may allow the State of Alaska to
5 participate in the implementation of the western
6 Alaska community development quota program.

7 “(B) If the State of Alaska participates, the
8 Secretary may require CDQ groups to submit a copy
9 of their community development plans to the Gov-
10 ernor of Alaska.

11 “(C) If the State of Alaska is participating in
12 the implementation of the western Alaska commu-
13 nity development quota program and the total of the
14 harvest shares requested pursuant to paragraph
15 (4)(B)(i) for a fishery is greater than the percentage
16 of the total allowable catch or guideline harvest level
17 for the fishery allocated under paragraph (2) to the
18 western Alaska community development quota pro-
19 gram, the Secretary may direct the Governor of
20 Alaska—

21 “(i) to consult with the CDQ groups;

22 “(ii) to consult with the North Pacific
23 Fishery Management Council regarding the
24 plans; and

1 “(iii) to timely submit the Governor’s rec-
2 ommendations regarding the approval of the
3 plans by the Secretary.

4 “(D) The Governor shall indicate, in writing, to
5 the Secretary and to each CDQ group the rationale,
6 and the factual basis for the rationale, for any rec-
7 ommendation regarding the Secretary’s approval of
8 a CDQ group’s community development plan.

9 “(7) REPORTS.—(A) On March 1 of each cal-
10 endar year each CDQ group shall submit a report
11 regarding its approved community development
12 plans then in effect to the Secretary, and to the
13 Governor of Alaska if the State of Alaska is partici-
14 pating under paragraph (6).

15 “(B) Each report shall describe the following:

16 “(i) The CDQ group’s implementation dur-
17 ing the previous calendar year of the CDQ
18 projects described in the group’s community de-
19 velopment plans, and any modifications to a
20 project that the group may have made since the
21 last report.

22 “(ii) In summary form, the financial per-
23 formance during the previous calendar year of
24 each subsidiary, joint venture, partnership, or
25 other entity in which the CDQ group owns an

1 equity interest, and all other non-CDQ project-
2 related activities in which the group engaged.

3 “(iii) The CDQ group’s budget for the cur-
4 rent calendar year.

5 “(C) Financial and strategic business informa-
6 tion contained in reports submitted under this para-
7 graph shall be considered confidential. The Sec-
8 retary, and the Governor of Alaska if the State of
9 Alaska is participating in the Secretary’s implemen-
10 tation of the western Alaska community development
11 quota program—

12 “(i) shall not make such information avail-
13 able to the public; and

14 “(ii) may not use such information for any
15 purpose other than evaluating the financial sta-
16 tus and performance of the CDQ group that
17 submitted the information.

18 “(8) DEFINITIONS.—For the purposes of this
19 subsection:

20 “(A) The term ‘CDQ group’ means a non-
21 profit or for-profit corporation or other entity
22 whose membership is exclusively composed of
23 one or more communities that satisfy the cri-
24 teria described in paragraph (3)(A) through
25 (E).

1 “(B) The term ‘community development
2 plan’ means a plan that describes—

3 “(i) how a CDQ group intends to har-
4 vest its requested share of the percentage
5 of the total allowable catch or guideline
6 harvest level of a directed Bering Sea fish-
7 ery that the Secretary has allocated to the
8 western Alaska community development
9 quota program; and

10 “(ii) how the group intends to use the
11 harvest opportunity and the revenue de-
12 rived therefrom to assist communities that
13 are members of the group to achieve sus-
14 tainable long term local economic develop-
15 ment.

16 “(C)(i) Subject to clause (ii), the term
17 ‘CDQ project’ means a program or activity that
18 is administered or initiated by a CDQ group
19 and that is funded by revenue the CDQ group
20 derives or accrues during the duration of a
21 community development plan approved by the
22 Secretary from harvesting the fishery covered
23 by the plan.

24 “(ii) Such term does not include a program
25 or activity administered or initiated by a sub-

1 subsidiary, joint venture, partnership, or other en-
2 tity in which a CDQ group owns an equity in-
3 terest, if the program or activity is funded by
4 the assets of the subsidiary, joint venture, part-
5 nership, or other entity, rather than by the as-
6 sets of the CDQ group.

7 “(9) REGULATIONS.—The Secretary may pro-
8 mulgate such regulations as are reasonable and nec-
9 essary to enable the Secretary to implement this
10 subsection.”.

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